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CONFLICT OF LAWS: MATRIMONIAL DOMICIL.—The decision of the Circuit Court of Appeals for the Fifth Circuit, in the case of *Parker v. Parker*,¹ was rested on the authority of *Haddock v. Haddock*,² and, taken with the prior decisions of the state court in *Montmorency v. Montmorency*,³ puts Texas in line with New York with respect to the question of the validity of divorce granted upon substituted service of summons. Parker deserted his wife in California and moved to Missouri, where he established a new domicile, and thereafter obtained a divorce in Missouri on substituted service. He married again and became domiciled in Texas, where the validity of the Missouri decree was denied by the federal court,⁴ in a bill filed by the deserted wife, after his death, for a share of his property. In this case it was held, as in *Haddock v. Haddock*, that by Parker's desertion of his wife, the matrimonial domicile remained with her, and since the matrimonial domicile was still in California, no other court had jurisdiction to render a binding decree, not even the Missouri court, which necessarily found that the wife deserted him in not accompanying him.

In *Atherton v. Atherton*,⁵ the decree of the husband's domiciliary court after the wife left him was held binding, even though it was found by the New York court that the wife left because of the husband's cruelty. The result of these decisions would seem to be that a decree granted to a husband for the wife's refusal to accompany him, even though her refusal constitutes desertion, is open to inquiry by all other courts, while a decree granted by the court where the wife remained would not be open to attack.⁶ On the other hand, it would seem that a husband who had been so cruel as to force the wife to leave home, might obtain a binding decree, while the wife so forced to abandon her home could obtain no such decree.⁷ Such a result follows from the part played by the so-called matrimonial domicile.

The question arises as to the meaning of the term "matrimonial domicile." (1) Does it mean the place where the parties had lived together as husband and wife? (2) Does it mean the place where the husband had acquired a new domicile under such circumstances as to constitute desertion by the wife in refusing to accompany him?

Jersey in Compagnie Universelle de Telegraphie v. United States Service Corporation (August 3, 1915), 95 Atl. 187. The latter case, however, was a bill for specific performance of a contract respecting land at Tucker-town, New Jersey, upon which a wireless telegraph station had been erected.

¹ (Apr. 15, 1915), 222 Fed. 186.

² (1906), 201 U. S. 562, 50 L. Ed. 867, 26 Sup. Ct. Rep. 525.

³ (Tex., 1911), 139 S. W. 1168.

⁴ (Apr. 15, 1915), 222 Fed. 186.

⁵ (1901), 181 U. S. 155, 45 L. Ed. 794, 21 Sup. Ct. Rep. 544.

⁶ *Haddock v. Haddock* (1906), 201 U. S. 562, 50 L. Ed. 867, 26 Sup. Ct. Rep. 525.

⁷ *Atherton v. Atherton* (1901), 181 U. S. 155, 45 L. Ed. 794, 21 Sup. Ct. Rep. 544.

(3) Does it mean the place where one spouse is rightfully domiciled and where the other ought to be to fulfill the marital obligation? The latter is the view taken by a writer in the *Harvard Law Review*.⁸ In any view of the case, jurisdictional elements are involved; under (1) to ascertain where the parties had actually lived together as husband and wife; under (2) to ascertain if a given state had been the husband's domicile under such circumstances as to constitute desertion in the wife's refusal to join him; under (3) to ascertain where one spouse is rightfully domiciled and where the other ought to be to fulfill the marital obligation. It would seem, if the rule were as stated in (3) that it should have been open to the New York court in *Atherton v. Atherton* to determine which party was in the right in order to decide if the husband were in the matrimonial domicile—the very point that was denied in that case.

Notwithstanding the rule that the wife's domicile ordinarily changes with the husband's, and the implication in this case that the matrimonial domicile would have followed constructively if he had not been the offending party, it seems that the phrase matrimonial domicile as used by the Supreme Court of the United States means only the place where the parties had lived together as husband and wife. If a husband could take the matrimonial domicile with him, the decree of a court having jurisdiction of that domicile and one of the parties is binding everywhere. But it is clear from *Haddock v. Haddock* that the decree under such circumstances is always open to attack, since the Connecticut court found that he had been deserted by his wife and this finding was allowed to be attacked by the New York court.

The case of *Parker v. Parker* should be confined to the special situation where a husband wrongfully deserts the wife, leaving her in the matrimonial domicile and while she is still there brings a suit on substituted process in a foreign state. (1) It does not apply to a case where the husband was not at fault, since in that case the wife's domicile would follow his. (2) It does not apply to a case where she was actually served in the forum or where she voluntarily appears. (3) Nor should it apply to a case where the wife had left the matrimonial domicile either before or after the husband.

G. W. W., Jr.

CONSTITUTIONAL LAW: WORKMEN'S COMPENSATION ACT.—The simplest, clearest, most comprehensive, and most conclusive decision upholding the constitutionality of a compulsory workmen's compensation act has been written by the California Supreme Court in *Western Indemnity Company v. Pillsbury*.¹ Mr. Justice Sloss has cleared the argument of verbiage and irrelevancies, and taken the position which, it is conceived, ought to have been taken by the

⁸ 28 *Harvard Law Review*, 457.

¹ (Aug. 4, 1915), 50 Cal. Dec. 172, 291, 151 Pac. 398.